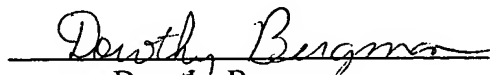


DAG  
\$  
ZPW

I hereby certify that this paper and the documents referred to as enclosed therein are being deposited with the United States Postal Service on this date, the 1<sup>st</sup> day of July, 2005, in an envelope with first class postage prepaid thereon addressed to Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA, 22313-1450.



  
Dorothy Bergman

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**PATENT**

In Re the application of:      James W. Huffman

Application No.:                      10/804,999

Filed:                                      03/22/2004

For:                                        METHOD AND TOOL SYSTEM FOR PLASTIC PIPE REPAIR

Group No.:                              1734

Examiner:                                Osele, Mark A.

Current Date:                          July 1, 2005

MAIL STOP PETITION  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**  
**- OFFICE ACTION NOT RECEIVED**

1.      Petition is hereby made to withdraw the holding of abandonment in this matter on the basis that the Office Action (Notice of Allowance) forming the basis of the abandonment was not received.

07/07/2005 GWORDDF2 00000023 10804999

01 FC:2501	700.00 OP	1.
02 FC:1504	300.00 OP	

07/07/2005 GWORDDF2 00000023 10804999

03 FC:2453	750.00 OP
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2. I hereby state:

- (a) The Office Action indicated by the PAIR System of the Patent and Trademark Office (PTO) as having a mailing date of 12/03/2004, was never received.
- (b) A search of the file jacket and the docket records in the Petitioner's office indicate and bear witness to the fact that the Office Action was not received because they show no record of it.

3. There is attached hereto and hereby made a part hereof a statement of the Petitioner describing the record keeping and docketing system in his office, setting forth Exhibits as evidence thereof showing where the non-received Notice of Allowance and ancillary papers would have been entered and docketed had they been received and providing additional evidence by way of Exhibits of the Petitioner's office staff concerned with the matter.

4. In consideration of these submissions, it is respectfully requested that the holding of abandonment be withdrawn as there has never been any intention on the part of either Petitioner or Applicant to allow the instant Application to become abandoned and it became abandoned only by operation of law by reason of failure to receive a Notice of Allowance and other ancillary documents indicated by the PTO PAIR System as having been mailed as aforesaid and never received by the Petitioner nor the Applicant. The entire delay in paying the required issue and publication fees from the due date of the said fees until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

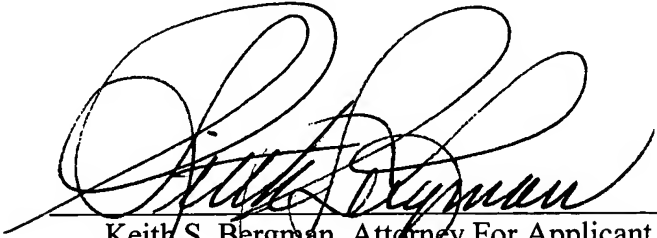
5. There is transmitted herewith a check in the amount of \$1,750.00 in payment of the following fees:

Petition Fee to Revive Unintentionally Abandoned Application (CFR 1.17(m))	\$750.00
Issue Fee (CFR 1.18(a))	\$700.00
Publication Fee (CFR 1.18(b))	<u>\$300.00</u>
Total:	\$1,750.00

If any other or additional fees or charges are required to file and process this matter as herein requested, permission is hereby given to charge such fees to Petitioner's Deposit Account No. 02-2110, request is made hereby to do so, and a duplicate copy of this document is

transmitted herewith.

6. This Application was filed after June 8, 1995 and it is Petitioner's understanding that no terminal disclaimer is required herein and none is therefore provided.



Keith S. Bergman, Attorney For Applicant  
7 South Howard Street, Suite 418  
Spokane, Washington 99201-3898

Dated: July 1, 2005  
Place: Spokane, WA  
Telephone No.: (509) 838-2851  
Facsimile No.: (509) 838-8833



## PETITIONER'S STATEMENT

I, Keith S. Bergman, Registration Number 18,153, the attorney and Petitioner for Applicant makes this statement in support of a Petition To Withdraw Holding of Abandonment in the above entitled matter by reason of the fact that the Notice of Allowance indicated as sent herein was never received.

1. Your Petitioner has been a sole practitioner at all times relevant hereto and is assisted by a legal secretary, Dorothy C. Bergman and a paralegal, Judith A. Emry, all three of whom maintain individual dockets concerning required patent and trademark actions and the dates by which such actions must be taken. All incoming mail to Petitioner's office firstly comes to the Petitioner who opens it and records action dates in his docket if PTO actions are required. The material then passes to Dorothy C. Bergman who records the same information in her docket and thereafter passes the material to Judith A. Emry who records the same information in her computerized docket before the incoming mail is filed.

2. Your Petitioner maintains a handwritten daybook in which he records Patent and Trademark Office Actions noted a first time on the dates on which responses are due and a second time approximately one month prior thereto. A copy of that daybook record from December of 2004 through June of 2005 is labeled as *Exhibit 1*, attached hereto and made a part hereof as fully as if set forth at length herein. Those records show nothing concerning Applicant Huffman except an entry on June 17, 2005 indicating the receipt of the Notice of Abandonment herein for Action on or before July 2<sup>nd</sup> and an entry on July 1, 2005 indicating the time action should be taken on a Petition to withdraw the Holding of Abandonment to avoid absolute abandonment, preceding from week-ends and holidays. Petitioner never received any papers from the Patent and Trademark Office as indicated in the PAIR System as mailed on 12/03/2004, though your Petitioner did talk to the Examiner handling this matter on or about December 3, 2004 concerning potential amendments that were agreed to be handled by an Examiner's Amendment.

3. Dorothy C. Bergman maintains a card file for each active patent and trademark

matter in the Petitioner's office indicating dates by which any required actions must be taken. These cards are inspected approximately weekly. Two months and one month before the dates actions are required, notice of the matters are given to Petitioner and entry thereof made in Petitioner's daily docketing system at that time if the entries are not already in the Petitioner's system. A copy of the docketing card relating to Applicant Huffman is labeled as *Exhibit 2*, attached hereto and made a part hereof as fully as if set forth herein. The only thing that card indicates is receipt of the Notice of Abandonment herein. If any action or document had been received concerning a Notice of Allowance and ancillary matters that would have required responsive action there would have been an entry of that on the card. Lack of any such entry therefore shows that no such document was received by Dorothy C. Bergman.

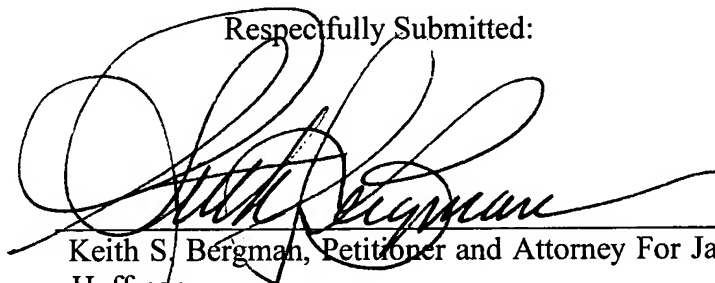
4. Judith A. Emry maintains a computerized docket of all pending patent and trademark matters that require future actions. This docket is maintained as an annual spreadsheet setting forth various pertinent information concerning the matters, so the data can be manipulated and sorted for various purposes. Copies of the spreadsheet docket for the years 2004 and 2005 to date are labeled respectively *Exhibits 3* and *4*, attached hereto and hereby made a part hereof as fully as if set forth at length herein. The only entry in the 2004 docket relating to Applicant Huffman is on the last Page 5 which merely indicates the receipt of the Filing Receipt with pertinent serial number and confirmation number. The only entry in the 2005 docket (which was sorted by client number and name) that relates to Applicant Huffman is on Page 3 in alphabetical order. This entry merely shows the receipt of the Notice of Abandonment in the matter that was indicated as mailed 05/03/2005 and received 05/26/2005. Had the Notice of Allowance and ancillary papers been received an entry regarding them would have appeared between the two aforesaid dates.

5. None of the aforesaid three independent dockets show any receipt of a Notice of Allowance indicated by the PAIR System of the PTO as mailed 12/03/2004 or any of the other ancillary documents indicated as mailed on the same date, and probably mailed in the same envelope. Inquiry of the Applicant Huffman has indicated that he never received any Notice of Allowance or ancillary documents from the PTO and according to present PTO practice the Notice of Allowance and ancillary documents would not or should not have been sent to the Applicant directly in any event.

6. As a side light of interest your Petitioner has received mail from the PTO in three instances in the last year where two envelopes, one addressed to your Petitioner and one addressed to some other third party patent attorney with which your Petitioner had no connection were attached to each other and both delivered to your Petitioner. Both envelopes had papers in them relating to patent actions and I merely sent the spurious envelope addressed to the unconnected patent attorney directly to that patent attorney. I did not keep records concerning these matters and at present I do not know what the applications were, the identity of the applicants or of the patent attorneys involved. These happenings, however, would tend to be suspicious and probably tend to indicate some problem in the PTO mailing system. All three of the instances referred to had the two envelopes interconnected by one being under the sealing flap of the other and by cursory inspection the two joined envelopes appeared to be one envelope. In all three cases the envelope that had an uncovered face was the one with your Petitioner's address on it and that undoubtedly was the reason it was delivered to your Petitioner.

7. Statements of Dorothy C. Bergman and Judith A. Emry concerning this matter are attached hereto and labeled respectively *Exhibits 5* and *6*.

Respectfully Submitted:



Keith S. Bergman, Petitioner and Attorney For James W. Huffman

Date: July 1, 2005  
Place: Spokane, WA

November	December	January	February	2005
S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5 6	1 2 3 4	2 3 4 5 6 7 8	1 2 3 4 5	6 7 8 9 10 11
7 8 9 10 11 12 13	5 6 7 8 9 10 11	9 10 11 12 13 14 15	6 7 8 9 10 11 12	13 14 15 16 17 18
14 15 16 17 18 19 20	12 13 14 15 16 17 18	16 17 18 19 20 21 22	13 14 15 16 17 18 19	20 21 22 23 24 25
21 22 23 24 25 26 27	19 20 21 22 23 24 25	23 24 25 26 27 28 29	20 21 22 23 24 25 26	27 28 29 30 31
28 29 30	26 27 28 29 30 31			

Monday Nov. 29	334/32
1	
2	
3	
4	
5	
evening	

*4 letters - 3 words to send*

*Go Clark w/c runs 12/19*

Tuesday Nov. 30	335/31
1	
2	
3	
4	
5	
evening	

Wednesday Dec. 1	336/30
1	
2	
3	
4	
5	
evening	

MONDAY NOV. 29  
thru  
SUNDAY DEC. 5

Week 49

Thursday Dec. 2	337/29
8	
9	
10	
11	
12	
evening	

BEST AVAILABLE COPY

Friday Dec. 3	338/28
8	
9	
10	
11	
12	
evening	

Saturday Dec. 4	339/27	Sunday Dec. 5	340/26
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EXHIBIT 1

November							2004
S	M	T	W	T	F	S	
	1	2	3	4	5	6	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30					

December 2004						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

January 2005						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22

February							2005
S	M	T	W	T	F	S	
		1	2	3	4	5	
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30				

Monday Dec. 6 341/25

1
2
3
4
5

*Sweden - Campole and  
see 1/04/05  
Olympic foods  
Native Cuisine and  
dinner*

Tuesday Dec. 7: 342/24

PEARL HARBOR REMEMBRANCE DAY (US)

HANUKKAH begins at sundown

1
2
3
4
5

*218 2201*

Wednesday Dec. 8 343/23

HANUKKAH

1
2
3
4
5

*Pete Burrows*

MONDAY DEC. 6  
thru  
SUNDAY DEC. 12

Week 50

Thursday Dec. 9 344/22

8
9
10
11
12

evening

BEST AVAILABLE COPY

Friday Dec. 10 345/21

8
9
10
11
12

evening

Saturday Dec. 11 346/20

Sunday Dec. 12 347/19

VIRGIN OF GUADALUPE (M)




[illegible]

Monday Dec. 13 348/18

1	
2	
3	
4	
5	evening

Tuesday Dec. 14 349/17

3	1
2	2
10	3
11	4
22	5
	evening

Wednesday Dec. 15 350/16

	evening
3	1
2	2
0	3
1	4
2	5

MONDAY DEC. 13  
thru  
SUNDAY DEC. 19

**Week 51**

Thursday Dec. 16 351/15

8		
9		
10		
11		
12		

evening

**BEST AVAILABLE COPY**

Friday Dec. 17 352/14

8	9	10	11	12	1	2	3	4	5	
					AVAILABLE COPY					evening

Saturday Dec. 18	353/13	Sunday Dec. 19	354/12
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[illegible]



February							2005						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
				1	2	3	4	5					
6	7	8	9	10	11	12							
13	14	15	16	17	18	19							
20	21	22	23	24	25	26							
27	28												

Monday Dec. 27 362/4

1	
2	
3	
4	
5	evening

Tuesday Dec. 28 363/3

3	1
4	
5	2
6	
7	3
8	
9	4
10	
11	5
12	
	evening

Wednesday Dec. 29 364/2

3	1
2	2
10	3
11	4
22	5

evening

MONDAY DEC. 27  
thru  
SUNDAY JAN. 2

**Week 53**

Thursday Dec. 30 365/1

8	1
9	2
10	3
11	4
12	5
evening	

Friday Dec. 31 366/10

1	2	3	4	5
8				
9				
10				
11				
12				
evening				

Saturday Jan. 1	1/364
Sunday Jan. 2	2/363

[illegible]